IN THE SUPERIOR COURT OF GUAM

GOVERNMENT OF GUAM And EDNA T. PAULINO,	Supreme Court Case No. CVA04-006
Plaintiff-Appellee,	Superior Court Case No. CV1426-03
vs.	
PACIFICARE HEALTH INSURANCE COMPANY OF MICRONESIA, INC., dba PACIFICARE ASIA PACIFIC,	**ORDER**
Defendant-Appellant.	

This matter comes before the court pursuant to a Petition for Rehearing filed by the Plaintiff-Appellee, the Government of Guam ("Government") on October 1, 2004. The Government requests rehearing of the court's Opinion filed on September 17, 2004, pursuant to Rule 31 of the Guam Rules of Appellate Procedure. The Defendant-Appellant PacifiCare Health Insurance Co. of Micronesia, Inc., dba PacifiCare Asia Pacific ("PacifiCare") filed a response in opposition to the Petition on October 21, 2004.

Under Rule 31 of the Rules of Appellate Procedure, rehearing may only be granted where the court has overlooked or misapprehended points of law or fact in its original consideration of the appeal. *See* Guam R.App.Pro. 31; *Guam Housing & Urban Renewal Authority vs. Dongbu Ins. Co.*, 2002 Guam 3, ¶¶ 1, 5.

In its Petition, the Government makes two primary contentions supporting reconsideration of the majority decision in its September 17, 2004 Opinion. First, the Government argues that the court erroneously determined that because the issues relevant to the arbitrators' authority were procedural in nature and therefore within the purview of the arbitrators to decide, the arbitrators properly considered the issue of termination. With regard to this argument, the Government contends that the record does not support a finding that the parties had reached an impasse on the issue of Pacificare's obligation to continue coverage under the parties' Agreement. Second, the Government contends that in light of the Appellate Division decision in *Government of Guam v. FHP, Inc.*, Civ. Nos. 90-00014A, 90-000206A, 90-00040A, 1991 WL 275584 (D. Guam App. Div. July 10, 1991), this court erred in reversing the trial court's decision vacating the arbitration award. With regard to this argument, the Government contends that under the *Government of Guam v. FHP* case, the arbitrators lacked the authority to arbitrate the issue of termination where the parties could not agree on rates and benefits.

Having considered the arguments presented in the Petition, the court does not agree that rehearing is necessary. The arguments raised in the Petition were either previously considered and rejected by the majority of the court as set forth in the majority opinion. The Government had failed to demonstrate that the court misapprehended or overlooked points of law or fact in its decision. *See Brown v. Eastman Kodak Co.*, Supreme Ct. Case No. CVA99-010 (Order, May 8, 2001). Accordingly, the Government's Petition for

Rehearing is **DENIED** and the mandate shall herein issue forthwith.

SO ORDERED, this 8th day of November, 2004.

PETER C. SIGUENZA, JR.
Justice Pro Tempore

ROBERT J. TORRES, JR.
Associate Justice

F. PHILIP CARBULLIDO
Chief Justice